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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,773	08/08/2001	Brent A. Allsop	10007152-1	4323

7590 06/25/2004  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER
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NGUYEN BA, HOANG VU A

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/924,773	<b>Applicant(s)</b> ALLSOP ET AL.	
	<b>Examiner</b> Hoang-Vu A Nguyen-Ba	<b>Art Unit</b> 2122	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to the application filed August 08, 2001.
2. Claims 1-9 have been examined.

#### *Drawings*

3. The drawings filed concurrently with the above application are approved by the examiner.

#### *Claim Objections*

4. Claim 9 is objected to because of the following informalities: the conjunction "and" at the end of line 4 (e.g., after "system;") should be deleted.

Appropriate correction is required.

#### *Claim Rejections – 35 U.S.C. § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent,

except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

6. Claims 1-9 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,363,524 to Loy.

**Claim 1**

Loy disclose at least:

*analyzing the system to identify patches previously installed on the system (see at least Figure 1, item 104 and related discussion in the specification); and*  
*identifying at least one patch as a candidate for installation on the system based on the results of the analysis (see at least Figure 1, item 126 and related discussion in the specification).*

**Claim 2**

The rejection of base claim 1 is incorporated. Loy further discloses *designating the patch identified as a recommended patch for installation on the system based on the patches identified during the analysis (see at least Figure 3B, step 334 and related discussion in the specification).*

**Claim 3**

The rejection of base claim 1 and intervening claim 2 is incorporated. Loy further discloses *wherein the patch identified for installation is either a new patch or a successor patch for a previously installed patch (see at least Figure 2 and related discussion in the specification; new patch is interpreted to mean Loy's critical path and successor patch Loy's superseded critical patch).*

#### **Claim 4**

The rejection of base claim 1 and intervening claim 2 is incorporated. Loy further discloses *the step of selecting the patch identified for installation on the system* (see at least Figure 3B, item 334 and related discussion in the specification).

#### **Claim 5**

Loy discloses at least:

*analyzing the system to identify patches previously installed on the system* (see at least Figure 1, item 104 and related discussion in the specification); and

*generating a list of patches as candidates for installation on the system based on the results of the analysis* (see at least Figure 3A, item 314 and related discussion in the specification).

#### **Claim 6**

The rejection of base claim 5 is incorporated. Loy further discloses *the step of rating each patch according to its reliability of installation* (see at least Figure 3B, steps 332, 334, 336 and related discussion in the specification).

#### **Claim 7**

The rejection of base claim 5 and intervening claim 6 is incorporated. Loy further discloses *the step of designating at least one patch on the list as a recommended patch for installation based on the rating for such patch* (see at least Figure 3B, step 334 and related discussion in the specification).

### Claim 8

The rejection of base claim 5 and intervening claims 6-7 is incorporated. Loy further discloses *wherein the recommended patch for installation is either a new patch or a successor patch for a previously installed patch* (see at least Figure 2 and related discussion in the specification; *new patch* is interpreted to mean Loy's critical path and *successor patch* Loy's superseded critical patch).

### Claim 9

Loy discloses at least :

*analyzing the system to identify patches previously installed on the system* (see at least Figure 1, item 104 and related discussion in the specification);

*based on the patches identified, rating a plurality of patches to be installed according to their reliability for installation* (see at least Figure 3B, steps 332, 334, 336 and related discussion in the specification); and

*designating at least one patch as a recommended patch for installation on the system based on the rating of the patch to be installed* (see at least Figure 3B, step 334 and related discussion in the specification).

### Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Antony Nguyen-Ba, whose telephone number is (703) 305-0103. The examiner can normally be reached on Tuesday- Friday from 6:00 – 4:15 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam, can be reached at (703) 305-4552.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Central Fax Number

(703) 872-9306

A handwritten signature in cursive script, reading "Hoangun Antony Nguyen Ba".

**ANTONY NGUYEN-BA  
PRIMARY EXAMINER**

Art Unit 2122

June 22, 2004